

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-2729

**PETITION OF WASHINGTON D.C. SMSA LIMITED PARTNERSHIP
D/B/A VERIZON WIRELESS
AND MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION**

OPINION OF THE BOARD

(Opinion Adopted November 5, 2008)
(Effective Date of Opinion: February 9, 2009)

Case No. S-2729 is an application for a special exception, pursuant to Section 59-G-2.58 of the Zoning Ordinance to allow construction of a telecommunication facility on property owned by the Maryland National Capital Park and Planning Commission. The Hearing Examiner for Montgomery County held a hearing on the application on September 19, 2008, closed the record in the case on September 26, 2008, and on October 17, 2008, issued a Report and Recommendation for approval of the special exception.

The subject property is Parcels 229 and 250, Layhill Subdivision, located at 1313 Bonifant Road, Colesville, Maryland, 20905, in the RE-2 Zone.

Decision of the Board: Special Exception **Granted** Subject to
The Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on November 5, 2008. After careful consideration and review of the record in the case, the Board voted to adopt the Report and Recommendation, with a slight amendment to Condition No. 5, and **grant** the special exception subject to the following conditions:

1. The Petitioners shall be bound by all of the exhibits of record, and by the testimony of their witnesses and the representations of counsel identified in this report.

2. Petitioners must comply with the Final Forest Conservation Plan (Exhibits 6(a) and (b)). Petitioners must obtain a Park Construction Permit prior to any clearing, grading or construction on the site.
3. Department of Permitting Services requirements, if any, for stormwater quality and quantity control must be fulfilled prior to issuance of any sediment and erosion control permits.
4. At the completion of construction, before the support structure may be used to transmit any signal, and before the final inspection pursuant to the building permit, the Petitioners must certify to the Department of Permitting Services that the height and location of the support structure is in conformance with the height and location of the support structure as authorized in the building permit.
5. The telecommunication facility must display a contact information sign, no larger than two square feet, affixed to the outside of the equipment enclosure. This sign must identify the owner and the maintenance service provider and provide the telephone number of a person to contact regarding the installation. The sign must be updated and the Board of Appeals notified within 10 days of any change in ownership. The special exception holders must cooperate with the a owner of the facility to transfer the special exception to that new owner.
6. There must be no antenna lights or stroboscopic lights unless required by the Federal Communications Commission, the Federal Aviation Administration, or the County.
7. There must be no outdoor storage of equipment.
8. Each owner of the telecommunications facility is responsible for maintaining the facility in a safe condition.
9. The facility shall be available for co-location of up to three carriers.
10. The telecommunications facility must be removed at the cost of the owner of the telecommunications facility when the facility is no longer in use by any telecommunications carrier for more than 12 months.
11. Petitioners must obtain a Hazmat Use Permit for the subject site before commencing operations.
12. Petitioners must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and the entire premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by David K. Perdue, seconded by Catherine G. Titus, Vice-Chair, with Carolyn J. Shawaker, Walter S. Booth and Allison Ishihara Fultz, Chair, in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Acting Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 9th day of February, 2008.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.